

the lands and the sheep are the assets of the Mormon Church. The foreclosing creditor is the United States Government. The liabilities in the case are about to be determined by the Supreme Court. The problem is one of the strangest presented to this country since self-government was set up 100 years ago on a basis of freedom of conscience.

Early in the '50s the Church of Jesus Christ of Latter-day Saints was incorporated. The act of incorporation provided that the trustee or assistant trustee might "receive property, real or personal, by gift, donation, bequest or in any manner not incompatible with the principles of righteousness or the rules of justice." The act further stipulated that the property received should "be used, managed or disposed of for the benefit, improvement, erection of houses of public worship and instruction and the well-being of said Church."

The bestowal of incorporated powers on this Church society was declared to be justifiable "inasmuch as the doctrines, principles, practices or performances support virtue and increase morality and are not inconsistent with or repugnant to the Constitution of the United States or of this Territory, and are founded on the revelations of the Lord." So the incorporation began.

In 1862 Congress passed a law declaring it unlawful "for any corporation or association for religious or charitable purposes to acquire or hold real estate in any Territory of the United States, during the existence of the Territorial Government, of a greater value than \$50,000."

"Any real estate," the law went on to say, "acquired or held by any such corporation or association contrary to the provision of this act shall be forfeited and escheated to the United States."

But there was added a provision that "existing vested rights" should not be affected by the law.

This law of 1862 was prompted by the situation in Utah. It was intended to warn the Mormon corporation that it must not go on heaping up wealth. From 1862 to 1887, a quarter of a century, the law occupied so much space in the statutes, and that was all. Nothing was done looking to its enforcement.

On the 3rd of March, 1887, Mr. Cleveland neither signing nor vetoing, the Edmunds-Tucker bill became law. It declared the Church of Jesus Christ of Latter-day Saints disincorporated, and instructed the Attorney General to take steps to wind up its affairs "conformably with law." Conformably with what law? Why, with the law of 1862, which confiscated to the government all real estate over \$50,000.

The Attorney General, in June, 1887, brought suit in the Supreme Court of Utah, and asked for a receiver of the Mormon Church property. The court granted the request, and Frank H. Dyer, the United States Marshal, was appointed. That appointment was two years ago next month. Mr. Dyer demanded of the Church authorities their property. They pointed to the Tem-

ple block, the ten-acre square in the heart of the city with the \$3,000,000 temple approaching completion, the wonderfully constructed tabernacle with its great oval dome and seating capacity of 8000, the little endowment house set apart for the mysteries of the celestial marriages, and the assembly building, second only in imposing architecture to the temple and the tabernacle. The receiver took possession of this wall-bound square with its great buildings, wide walks and well-kept lawns. Then he said to the Mormons in effect:

"Here, take your Temple square, and take care of it until the courts get a little nearer the solution of this puzzle. As a recognition of my temporary control of the property, pay me a dollar a month."

And the Mormons did so, and went on preaching and worshipping according to their faith. In short, the United States became the landlord and the Mormon Church a tenant of the property it had created. Having thus arranged the matter of the big Temple block for the time being, the Receiver asked:

"What next?"

The Mormons pointed to the tithing yard, the collection of office buildings and sheds and store houses where for years the faithful had come and brought their contributions of grain and live stock and whatever they raised or manufactured, for the Church. The Receiver took possession, and not knowing what better to do with the property he at once rented it to the Mormons for \$250 a month, and the business of the Church went on at the old stand.

Then the Receiver came to the Gardo House, a fine structure used as the residence of the President of the Mormon Church, the parsonage, in fact. This was turned over by the Church, but leased back by the receiver to the Church for \$75 a month.

There followed about a year of steady fighting before the court. The Church protested against confiscation. In the act of 1887 is a provision which excepts so much real property from this confiscation as may be necessary "for the erection or use of houses of worship and for such parsonages and burial grounds as shall be necessary for the convenience and use of the several congregations of such religious society, sect or congregation."

In another place the law directed that all the property confiscated "shall be disposed of and the proceeds applied to the benefit of the common schools of the Territory." But here again was inserted a proviso, "that no building or the grounds appurtenant thereto which is held and occupied exclusively for purposes of the worship of God, or parsonage connected therewith, or burial ground, shall be forfeited."

Upon these exceptions the Church asked the return of the Temple block and of the Gardo House. It was a knotty question. The Church had been disincorporated and its property seized because its beliefs and practices, in the eyes of Congress, called for measures which

would crush it. Could it now be consistently recognized as a church and be allowed to receive back its property and go on worshipping, just as they had done. The court split the difference. It restored to the Church the Temple block, but ordered the Receiver to hold on to the Gardo House or parsonage. The order by which the Temple, the Endowment House, the Assembly Hall and the Tabernacle were returned as an interesting document. It recites that the Temple block is set apart "to the voluntary religious worshippers and unincorporated sect and body known as the Church of Jesus Christ of Latter-day Saints, for the erection by them of houses of worship, and for their use and convenience in the lawful exercise of worship, according to the tenets of said sect and body."

The corporation of Mormons must die. The individual Mormons are given the \$3,000,000 temple, the great tabernacle, the endowment house and the assembly and told to go on worshipping "according to the tenets" of their sect. This is called equity.

As to the tithing yard and church offices the claim was made that this part of the confiscation was invading "the existing vested rights" which the law of 1862 exempted. It was urged that this property had been in the possession of the church since long before 1862 and was exempt. The court decided otherwise and the Mormons are still paying rent to the receiver at the rate of \$250 a month.

The receiver was not satisfied with the above showing of property made by the church. When he had received the Temple block, the tithing-yard and the Gardo House, he asked for more. There were certain pieces of property the Church had sold to individuals just previous to or about the time of the passage of the act. Like a good receiver, Mr. Dyer did not rest with what was in sight. He hunted up all these recent transfers, eight or ten of them, and threatened suit. Protesting that the sales were genuine, but anxious to get the case in shape so that a final decree might be entered and an appeal taken to the Supreme Court, the church officers came in and deposited the full amount which the deeds showed they had received for the sales of property. This added \$84,666 to the Receiver's assets.

The Mormon Church owned a fine theatre, but sold it about the time the confiscation bill passed. For this property or its equivalent the Receiver put in his demand and \$27,000 more was paid over, which was all the Church had received, with interest added.

Next the Receiver called for \$30,000 worth of coal lands in Summit County, and the Church turned the property in.

The act of 1862 makes \$50,000 worth of real estate the limit, and says nothing about personal property. But the Receiver and the court held that the act of 1887 applied to personalty as well. Once more the invitation to Zaccheus